REMARKS/ARGUMENTS

Reconsideration and allowance of this application are respectfully requested.

Currently, claims 1-12 and 21-35 are pending in this application.   Claims 3-4, 7-8,

and 11-12 have been withdrawn from consideration.

Rejection Under 35 U.S.C. §102:

Claims 1-2, 5-6, 9-10 and 21-35 were rejected under 35 U.S.C. §102(b) as

allegedly being anticipated by the Actron OBD II Diagnostic Tester (hereinafter

"OBD").   Applicant respectfully traverses this rejection.

For a reference to anticipate a claim, each element must be found, either

expressly or under principles of inherency, in the reference.   Each claim limitation

is not found in OBD.   For example, OBD fails to disclose "a diagnosis function

evaluation part that determines that the fault diagnosis function is not in a normal

condition when the diagnosis process is not completed a predetermined number of

time(s) during a plurality of times the diagnosis process is performed", as required

by independent claim 1 and its dependents.   Similar comments apply to

independent claims 22-23.   OBD also fails to disclose "a diagnosis function

evaluation part that determines that the fault diagnosis function is not in a normal

condition when the diagnosis process is not completed a predetermined number of

cycle(s) during the plurality of driving cycles," as required by claim 24. Similar comments apply to independent claim 34. OBD also fails to disclose "a diagnosis function evaluation part that evaluates the fault diagnosis function based on one of the completion ratio and the incompletion ratio" as required by independent claim 5 and its dependents. Similar comments apply to independent claims 9 and 30 and those dependents.

The present invention relates to a diagnosis function evaluation system which determines whether the diagnosis function, which itself diagnoses certain equipment, is normal. The evaluation part determines whether the diagnosis function is normal, not whether a certain equipment is normal.

OBD discloses that when a vehicle's control system has a possible problem, DTC (Diagnostic Trouble Code) is displayed on a tester. (See pg. 1-1). However, OBD fails to disclose an evaluation part determining whether the diagnosis function is normal. OBD only discloses the apparatus diagnosing certain equipment of a vehicle, but not whether the diagnosis function, which itself diagnoses the certain equipment, is normal.

With respect to claims 1 and 2, page 2 of the Office Action apparently alleges that pages 1-1, 1-2, 2-1, and 2-2 of OBD disclose the claimed diagnosis function evaluation part. Similar allegations appear to be made with respect to independent claims 5, 9, 22-24 and 30. Applicant respectfully disagrees with these allegations. As noted above, OBD only discloses a failure diagnosis which diagnoses whether certain equipment is normal. The above cited portions of OBD are no different. For example, Page 1-1, "Vehicle computers can find problems" discloses:

> "These tests check the components to the computer which are used for (typically): fuel delivery, idle speed control, spark timing and emission systems"

From the above cited portion of OBD, it is clear that OBD merely discloses evaluating certain equipment of the vehicle such as fuel delivery, etc., rather than evaluating a diagnosis function of the certain equipment.

Claims 1-2, 5-6, 9-10 and 21-34 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Bischof et al (U.S. '322, hereinafter "Bischof"). Applicant respectfully traverses this rejection.

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With respect to claims 1-2, 5-6, 9-10 and 24-33, as alleged in page 3 of the

Office Action, Bischof discloses that the system for a fault diagnosis function is

completed or not. However, Bischof fails to disclose "a diagnosis function

evaluation part that determines that the fault diagnosis function is not in a normal

condition when the diagnosis process is not completed a predetermined number of

time(s) <u>during the plurality of times the diagnosis process is performed</u>," as required

by independent claim 1. For example, col. 4 lines 23-25 of Bischof discloses:

> "The flowchart shown in Fig. 2, defines a program of the monitoring module 70. <u>This program is carried out in pregiven time intervals (for example, every 200 msec)</u> when one of the above-mentioned operating states is present."

Also, col. 4 lines 57-60 of Bischof discloses:

> "whereas in opposite case, and <u>in accordance with step 112, it is assumed that a fault is present in the area of the function monitoring</u> of the microcomputer 22 and corresponding fault reactions are initiated by the monitoring module."

From the above cited portions of Bischof, it is clear that Bischof discloses

that whether the diagnosis function has a fault or not is determined <u>in every time</u>

<u>interval</u>, in other words, <u>in **one** diagnosis process</u>, and fails to disclose determining

"that the fault diagnosis function is not in a normal condition when the diagnosis

process is not completed a predetermined number of the times <u>during the plurality of</u>

times the diagnosis process is performed," as required by claim 1.   Similar

comments apply to independent claims 22-23.   Bischof's disclosure of <u>one</u>

diagnosis process to determine of a diagnosis function fault fails to teach evaluating

a fault diagnosis function as not being normal when the diagnosis process is not

completed a predetermined number of cycle(s) during a **plurality of driving cycles,**

as required by claims 24 and 34.

With respect to claim 22, as discussed above, Bischof discloses that whether

the diagnosis function has a fault or not is determined in <u>one</u> diagnosis process, and

thus fails to disclose determining that the fault diagnosis function is not in a normal

condition when the diagnosis process is not completed a predetermined number of

time(s) <u>during the plurality of times the diagnosis process is performed</u>.   Similar,

but not necessarily identical, comments apply to claims 9 and 24.

Accordingly, Applicant respectfully submits that claims 1-2, 5-6, 9-10 and

21-34 are not anticipated by OBD and/or Bischof, and thus respectfully requests that

the rejection of these claims under 35 U.S.C. §102 be withdrawn.
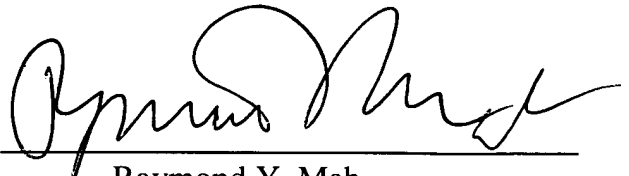
New Claim:

New claim 35 has been added to provide additional protection for the

invention.   Applicant submits that new claims 35 is directed to the elected

invention.   New claim 35 depends from claim 1 and is thus allowable for at least

the reasons discussed above with respect to claim 1.

Conclusion:

Applicant believes that this entire application is in condition for allowance

and respectfully requests a notice to this effect.   If the Examiner has any questions

or believes that an interview would further prosecution of this application, the

Examiner is invited to telephone the undersigned.

Respectfully submitted,

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By: _____

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